IN THE HIGH COURT OF JUDICATURE OF BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.2728 OF 2005

Tanaji Pandurang Kadam ... Applicant

versus

The State of Maharashtra ... Respondent

...

Mr.Ujwal Agandsurve, for the Applicant.

Mr.K.V. Saste, A.P.P., for the Respondent.

...

CORAM : A.M.KHANWILKAR,J.

28th April 2005

P.C.:

. Heard Counsel for the parties. Perused the record. Indeed, the offence in question is a serious offence. However, prima facie, I find substance in the argument of the Applicant that even accepting the prosecution case as it is, it will indicate the Applicant's participation was limited to taking away the child to the hospital after he was assaulted by the Applicant's father,

thereby committing offence of causing disappearance of evidence. Learned A.P.P., on the other hand, contends that the Applicant was party to conspiracy to attack the child. In the first place, section 120-B of the Indian Penal Code is not applied. Whereas, the Applicant has been implicated on account of section 34 of the Indian Penal Code. However, there is no direct or, for that matter, circumstantial evidence to suggest that the Applicant had participated at the time when the child was attacked by the Applicant's father, Pandurang. If that is not the prosecution case, the only offence for which the Applicant can be proceeded against is for causing disappearance of evidence, which is a bailable offence. As the charge sheet has been filed and there are no antecedents against the Applicant, the Applicant deserves to be enlarged on bail but on the following conditions.

(A) The Applicant is directed to be released on bail in connection with offence registered as CR.No.238/2005 with Vijapur Naka Police Station, Solapur, on executing personal bond in the sum of

Rs.10,000/- (Rupees Ten thousand only) with two local sureties in the like amount.

(B) The Applicant shall not influence the prosecution witnesses nor shall tamper with the prosecution evidence in any manner whatsoever.

(C) The Applicant shall co-operate for the early disposal of the trial. If the trial Court is of the opinion that the Applicant is responsible in any manner for the delay in disposal of the trial, that opinion be recorded in the roznama, which can be a ground for cancellation of bail.

. Application disposed of on the above terms.

(A.M.KHANWILKAR,J.)